

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:11-CR-00080-LRH-VPC

ORDER

v.

EVER VIVAR,

Defendant.

Rene L. Valladares, Federal Public Defender, and Nisha Brooks-Whittington, Assistant Federal Public Defender, have filed a motion to withdraw (#135) as defendant's counsel of record. The court received and reviewed the reduction of sentence report on defendant prepared by Probation. The report concludes defendant is ineligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2), Amendment 782, and pursuant to U.S.S.G. § 1B1.10, effective November 1, 2014, as he was sentenced to the statutory minimum sentence and in accord with 21 U.S.C. § 851(a)(1).

The court appointed defendant counsel to determine whether he qualifies for a reduction of sentence. Based upon Probation's report, counsel does not intend to file a motion for a reduction. The court will therefore grant the motion to withdraw.

Before and after being granted counsel, defendant filed motions (#131/134) seeking Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2). The United States Attorney's office responded to motion #131; the court does not find a response from the United States Attorney's office is necessary for a ruling on defendant's motion #134.


1 The defendant was sentenced to the statutory minimum sentence available and is
2 therefore not eligible for a sentence reduction.

3 Accordingly, IT IS HEREBY ORDERED that defendant's counsel's motion to
4 withdraw (#135) is **GRANTED**.

5 IT IS FURTHER ORDERED that defendant's motions (#131/134) seeking
6 Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2) are **DENIED**.

7 IT IS SO ORDERED.

8 DATED this 28th day of April, 2015.

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11 LARRY R. HICKS
12 UNITED STATES DISTRICT JUDGE
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